IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.THANKAPPAN

FRIDAY, THE 22ND JUNE 2007 / 1ST ASHADHA 1929

Crl.L.P..No. 384 of 2007()

CC.75/2005 of J.M.F.C., KODUNGALLUR

: PETITIONER/COMPLAINANT

RASHEED, AGED 40, S/O KUNJUMOHAMMED,
KATTAKATH PUTHENPURACKAL, SHANTHIPURAM,
SREENARAYANPURAM, KODUNGALLOOR.

BY ADV. SRI.KKM.SHERIF
SRI.P.A.MOHAMMED ASHROF
SRI.LAL K.JOSEPH
SRI.A.A.ZIYAD RAHMAN
SMT.SHEENA SAMUEL

RESPONDENTS: ACCUSED

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1. SALIM, S/O IBRAHIM, AGED 32
ELINJULLIPARAMBIL HOUSE, PADIYOOR,
MUKUNDAPURAM.

2. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY P.P.SRI.C.M.KAMMAPPU FOR R2

THIS CRIMINAL LEAVE PETITION HAVING BEEN FINALLY HEARD ON 22/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K. Thankappan, J.

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Crl.L.P. No. 384 of 2007

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Dated this the 22nd day of June, 2007

O R D E R

This is a petition to special leave to appeal filed by the complainant in C.C.No.75/2005 on the file of the Judicial Magistrate of the First Class , Kodungallur. By the impugned order, the trial court acquitted the 1st respondent under section 255(1) Cr.P.C. In the complaint it is alleged that the 1st respondent issued Ext.P1 cheque to the petitioner towards the share due to him and when the cheque was presented for encashment, it was dishonoured for insufficiency of funds. After considering the entire evidence the trial court found that "**there was no evidence to prove the investment by the complainant and dealings by the accused, the profit made, the settlement of accounts and the issuance of cheque except for the deposition of PW1 that the cheque was issued to discharge the liability of Rs.11 lakhs inclusive of all amount invested by him and the profit due to him out of the business".**

2. Considering the entire facts and circumstances of the case, this Court is of the view that the findings entered by the trial court are on evidence and they require any interference by this Court. Hence, leave to appeal is rejected.

K. Thankappan,
Judge.

mn.

K.Thankappan,J.

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Crl.l.P.No. /200

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ORDER

-6-2007